

United States Patent Application

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: A SYSTEM AND METHOD FOR NEUROMUSCULAR REEDUCATION.

The specification of which

- a. ☒ is attached hereto
 b. ☐ was filed on as application serial no. and was amended on (if applicable) (in the case of a PCT-filed application) described and claimed in international no. filed and as amended on (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (attached hereto).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a. ☒ no such applications have been filed.
 b. ☐ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

- a. ☒ no such applications have been filed.
 b. ☐ such applications have been filed as follows:

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

- a. ☐ no such applications have been filed.
 b. ☒ such applications have been filed as follows:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)
60/430,700	December 4, 2002

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office and before competent International Authorities including the World Intellectual Property Organization, connected herewith: I appoint the following:

Charles Berman, Reg. 29,249	Jesse D. Reingold, Reg. 20,461	Alan P. Force, Reg. 39,673
Christopher Darrow, Reg. 30,166	Joseph M. Manak, Reg. 33,013	Elizabeth S. Lapadula, Reg. 46,001
Margo Maddux, Reg. 50,962	Gerard F. Diebner, Reg. 31,345	Brad S. Needleman, Reg. 40,416
Albert L. Jacobs, Jr., Reg. 22,211	Mark A. Farley, Reg. 33,170	Paul J. Sutton, Reg. 24,201
Eugene C. Rzucidlo, Reg. 31,900	Adam B. Landa, Reg. 35,236	Anthony Barkume, Reg. 33,831
Claude Nassif, Reg. P52,061	Samuel K. Simpson, Reg. 53,596	Louis J. Bovasso, Reg. 24,075

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Greenberg Traurig LLP to the contrary.

Please direct all correspondence in this case to Greenberg Traurig LLP at the address indicated below:

GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA, CA 90404
ATTN: CHRISTOPHER DARROW, ESQ.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name Koeneman	First Given Name Edward	Second Given Name J.
0	Residence & Citizenship	City Mesa	State or Foreign Country Arizona	Country of Citizenship USA
1	Post Office Address	Post Office Address 2103 E. Cedar St., Suite 3	City Mesa	State & Zip Code/Country AZ 85281
Signature of Inventor: <i>Edward J. Koeneman</i>			Date: <i>12/2/03</i>	

2	Full Name Of Inventor	Family Name Koeneman	First Given Name James	Second Given Name B.
0	Residence & Citizenship	City Mesa	State or Foreign Country Arizona	Country of Citizenship USA
1	Post Office Address	Post Office Address 2103 E. Cedar St., Suite 3	City Tempe	State & Zip Code/Country AZ 85281
Signature of Inventor: <i>James B Koeneman</i>			Date: <i>12/02/03</i>	

2	Full Name Of Inventor	Family Name Herring	First Given Name Donald	Second Given Name E.
0	Residence & Citizenship	City Phoenix	State or Foreign Country Arizona	Country of Citizenship USA
1	Post Office Address	Post Office Address 2103 E. Cedar St., Suite 3	City Tempe	State & Zip Code/Country AZ 85281
Signature of Inventor: <i>Donald E. Herring</i>			Date: <i>12.02.03</i>	

2	Full Name Of Inventor	Family Name Schultz	First Given Name Robert	Second Given Name S.
0	Residence & Citizenship	City Mesa	State or Foreign Country Arizona	Country of Citizenship USA
1	Post Office Address	Post Office Address 2103 E. Cedar St., Suite 3	City Tempe	State & Zip Code/Country AZ 85281
Signature of Inventor: <i>Robert S. Schultz</i>			Date: 12-02-03	

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;
- or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

ASSIGNMENT

WHEREAS, We, **JAMES B. KOENEMAN; EDWARD J. KOENEMAN; ROBERT S. SCHULTZ; and DONALD E. HERRING**, the undersigned inventors (ASSIGNORS), have invented **A SYSTEM AND METHOD FOR NEUROMUSCULAR REEDUCATION**, for which we are about to file application for letters patent of the United States; each of us has executed the application concurrently with executing this assignment; we are the joint owners of this invention and improvements; and

WHEREAS, **KINETIC MUSCLES, INC.**, (ASSIGNEE) is a corporation organized and existing under the laws of Delaware having a place of business at 2103 E. Cedar St., Suite 3, Tempe, Arizona 85281, and ASSIGNEE desires to acquire the entire right, title and interest in and to the inventions, applications and letters patent to be granted and issued for the inventions and applications;

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) by the ASSIGNEE to each of us paid, and other valuable consideration, the receipt and legal sufficiency of all of which we acknowledge, we, the ASSIGNORS, have sold and do hereby sell, assign, transfer and set over unto the ASSIGNEE, its successors and assigns, the entire right, title and interest:

- in and to the inventions and all improvements thereon,
- in and to the application for letters patent thereon,
- in and to applications pertaining to or based upon the inventions and applications, including divisional and continuing applications and continuations-in-part,
- in and to any and all letters patent which may be granted and issued on the inventions and applications, or any of them, not only for, to and in the United States of America, its territories and possessions, but for, to and in all foreign countries, together with and including all priority rights based upon any and all applications in the United States of America covered by this Assignment, and
- in and to any right to sue for past infringement of the inventions, improvements, applications and letters patent.

And for the above-named considerations, we agree that we will, at the request of the ASSIGNEE, execute any and all applications for letters patent for the inventions and any and all other papers and documents and do all other and further lawful acts that the ASSIGNEE may deem necessary or desirable to obtain letters patent on the inventions, to secure the grant of such letters patent and to perfect and vest in the ASSIGNEE the entire right, title and interest in the inventions, applications and letters patent.

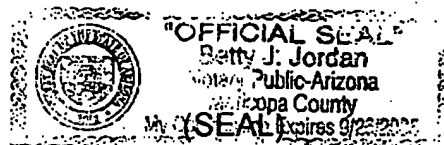
And for the above-named considerations, we authorize and empower the ASSIGNEE, its successors and assigns, to apply for and obtain, in its or their own names, letters patent for the inventions before competent International Authorities including the World Intellectual Property Organization and in any and all foreign countries in which applications for letters patent can be so made or letters patent so obtained

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On December 2, 2003 before Betty J. Jordan personally appeared ROBERT S. SCHULTZ, ☐ personally known to me or ☒ proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Betty J. Jordan
Notary Public



Dated: December 2, 2003

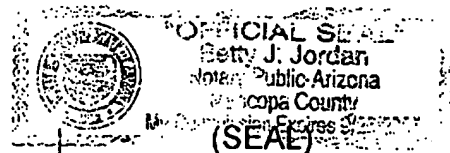
Robert S. Schultz
ROBERT S. SCHULTZ,
2103 E. Cedar St., Suite 3
Tempe, Arizona 85281

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On December 2, 2003 before Betty J. Jordan personally appeared DONALD E. HERRING, ☒ personally known to me or ☒ proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Betty J. Jordan
Notary Public



Dated: December 2, 2003

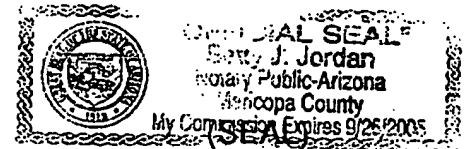
Donald E. Herring
DONALD E. HERRING,
2103 E. Cedar St., Suite 3
Tempe, Arizona 85281

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On December 2, 2003 before Betty J. Jordan personally appeared JAMES B. KOENEMAN, ☐ personally known to me or ☒ proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Betty J. Jordan
Notary Public



Dated: December 2, 2003

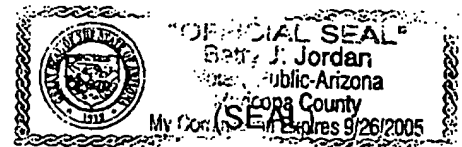
James B. Koенeman
JAMES B. KOENEMAN,
2103 E. Cedar St., Suite 3
Tempe, Arizona 85281

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On December 2, 2003 before Betty J. Jordan personally appeared EDWARD J. KOENEMAN, ☐ personally known to me or ☒ proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Betty J. Jordan
Notary Public



Dated: December 2, 2003

Edward J. Koенeman
EDWARD J. KOENEMAN,
2103 E. Cedar St., Suite 3
Tempe, Arizona 85281